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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

CISCO SYSTEMS, INC.,

Plaintiff,

vs.

ARISTA NETWORKS, INC.,

Defendant.

CASE NO. 5:14-cv-5344-BLF

**NOTICE OF SUPPLEMENTAL
INTRINSIC EVIDENCE RE CLAIM
CONSTRUCTION**

Claim Construction Hearing: April 8, 2016

1 On March 9, 2016, Arista submitted two additional pieces of evidence relevant to claim
2 construction. Dkt. 217. The submission was made after the deadline for the identification of
3 claim construction evidence—August 24, 2015—has passed. Patent L.R. 4-2; Dkt. 51. The two
4 additional pieces of evidence identified by Arista were Cisco’s Preliminary Patent Owner
5 Responses in response to Arista’s Petitions for Inter Partes Review of the asserted U.S. Patent
6 Nos. 7,047,526 and 7,953,886.

7 To the extent Arista is allowed to use Cisco’s Preliminary Patent Owner Responses at the
8 Markman hearing, Cisco should likewise be allowed to use Arista’s Petitions for Inter Partes
9 Review and accompanying expert declarations in support of Arista’s Petitions. Arista’s Petitions
10 and accompanying expert declarations are relevant to show, for example, that Arista’s claim
11 construction positions are contrary to the plain and ordinary meaning of the terms as applied in
12 Arista’s Petitions, or that Arista has adopted Cisco’s constructions for certain terms. Arista’s
13 Petition for Inter Partes Review of U.S. Patent No. 7,047,526 and the accompanying expert
14 declaration (Exhibit 1014) are attached hereto as Exhibits 1 and 2, respectively. Arista’s Petition
15 for Inter Partes Review of U.S. Patent No. 7,953,886 and the accompanying expert declaration
16 (Exhibit 1018) are attached hereto as Exhibits 3 and 4, respectively.

17 Arista justifies its late addition of evidence by arguing that the evidence “did not exist
18 when the parties filed their claim-construction briefs.” Dkt. 217 at 1. By the same logic, Cisco
19 should also be allowed to use Arista’s Petitions and accompanying expert declarations, which
20 were not filed until November 2015 and likewise did not exist by the August 24, 2015 Patent L.R.
21 4-2 deadline.

22 Accordingly, Cisco respectfully submits that Arista’s Petitions and accompanying expert
23 declarations should be considered along with the evidence already submitted in this case.

24
25 DATED: April 1, 2016

Respectfully submitted,

26
27 /s/ Sean S. Pak

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